

### **REMARKS/ARGUMENTS**

In response to the Office Action mailed September 9, 2009, Applicants amend their application and request reconsideration in view of the amendments and the following remarks. In this amendment, Claims 1-54 have been cancelled without prejudice and new claim 55 has been added so that Claim 55 remains pending. No new matter has been introduced.

Claims 1-34 were rejected under 35 USC 112, first paragraph. Claims 1-54 have been cancelled without prejudice. The rejection is now moot.

Claims 1-23 and 25-34 were rejected as being unpatentable over US Patent No. 5,842,971 to Yoon (Yoon). Claims 1-6, 9-14, 17-20, 21, 23 and 25-26 were rejected as being unpatentable over U.S. Patent No. 4,344,434 to Roberson (Robertson). Claims 22 and 27 were rejected as being unpatentable over Robertson in view of U.S. Patent No. 6,033,390 to von Dyck (von Dyck). These rejections are respectfully traversed.

In order to make a finding of obviousness, an Examiner must (1) determine the scope and content of the prior art, including non-analogous art if it is in the field of endeavor reasonably related to the particular problem to which the claimed invention is directed, (2) ascertain the differences between the claimed invention and the prior art, considering both the prior art and claimed invention as a whole, and (3) resolve the level of ordinary skill in the art at the time of the invention, factoring in the creativity that one of ordinary skill in the art would employ as well as the Examiner's own knowledge and technical expertise.

It is respectfully submitted that the references taken as a whole fail to disclose or suggest all of the claimed limitations.

Yoon discloses an endoscopic device for use in surgical procedures.

Robertson discloses an ileostomy closure and drainage appliance to be worn by a user in order to provide a continent ileostomy. The appliance or device comprises a support housing, a preshaped collapsible member and a means for withdrawing fluid from the interior cavity of the preshaped collapsible member to create a reduced pressure therein. The preshaped collapsible member 40 is a fluid tight, deflatable toroidal shaped member. The preshaped collapsible member 40 comprises openings 60 and 62 which extend from the interior to the surface of the member.

von Dyck discloses a continent ostomy port device. The device comprises a low profile face plate defining a relatively sealable aperture which is alignable with the opening of a stoma, a closure portion connectable to the face plate, a catheter portion and a retaining structure.

None of the references, whether taken alone or in combination disclose or suggest the device of new independent claim 55. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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By:\_\_\_\_\_

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